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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/758,769	01/16/2004	L. Scott Humphries	SKY03008	6307
25537 VERIZON PATENT MANAGEMENT GROUP 1320 North Court House Road 9th Floor ARLINGTON, VA 22201-2909	7590 11/21/2008			
EXAMINER				
FRANKLIN, RICHARD B				
ART UNIT		PAPER NUMBER		
2181				
NOTIFICATION DATE		DELIVERY MODE		
11/21/2008		ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patents@verizon.com

**Advisory Action
Before the Filing of an Appeal Brief**

Application No. 10/758,769	Applicant(s) HUMPHRIES ET AL.
Examiner RICHARD FRANKLIN	Art Unit 2181

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 04 November 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: _____.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

/Alfred W. Kindred/
Supervisory Patent Examiner, Art Unit 2181

Continuation of 11, does NOT place the application in condition for allowance because: Applicant argues that claims 15-18, 20, and 21 are drawn to statutory subject matter because of the recitation of "computer readable storage medium." However, the Examiner respectfully disagrees. Applicant argues that storage mediums may include "hard drives, flash drives, floppy disks, compact disks, etc" and states that "it includes any physical medium for storing the recited computer-readable instructions." However, the Examiner notes that Applicants specification states that a "computer readable medium" can also include non-statutory subject matter such as "transmission media." Applicant's specification does not define the term "computer readable storage medium." Therefore, in light of applicant's specification, the claims could be directed towards non-statutory subject matter (i.e. "transmission media"). If Applicant wishes to exclude non-statutory subject matter from the claims, Applicant is advised to amend the claims to use terms consistent with the specification (i.e. "non-volatile media" and "volatile media") to avoid confusion and argument as to the bounds of the claim limitations.

Applicant has also argued that the relied upon reference, US Patent Application Publication No.2003/0109988 (hereinafter Geissler), does not teach the "configuration message" to configure "an input/output (I/O) port of the one telemetry device" as required by independent claims 22 and 27. Applicant states that the "output unit" of Geissler can only be an output port, and not an input/output port. However, Geissler teaches that in addition to an output unit, the telemetry device may also be connected to a sensor device (Geissler; Paragraph [0054] Lines 8-10). Therefore, the port can be both an input/output port, capable of both input and output operations.

Applicant also argues that Geissler does not teach setting parameters of the I/O port according to the configuration message (See Applicant's Arguments; Page 14). Applicant argues that Geissler's teaching of turning the output device "on" or "off" does not teach setting parameters of the I/O port according to the configuration message. However, the Examiner submits that this limitation is not required by the claim limitations. The claim states that parameters RELATING to the I/O port are set according to the configuration message. Since the devices are connected and operate through the I/O port, it can be said that the devices are related to the I/O port. Therefore, setting parameters for the device, which are related to the I/O port, fulfills the claim limitations.

Applicant also argues that Geissler does not teach "receiving another user input to instruct the fleet and management system to transmit a control message to the one telemetry device, in response to the control message the one telemetry device controlling one of the objects via the I/O port and status of the I/O port" and "another user input is received instructing the fleet and asset management system to transmit a control message to the one telemetry device, in response to the control message the one telemetry device controlling the corresponding one of the objects via the I/O port." as required by claims 23 and 28 respectively. However, the Examiner respectfully disagrees. Geissler teaches a first user input to send a response message that controls the object (Geissler; Paragraph [0055] Lines 9-18). Geissler also teaches that subsequent response messages can be sent to the telemetry device (Geissler; Paragraph [0055] Lines 18-21). Therefore, since the subsequent response messages are no different than the first response messages, Geissler teaches that a user input can be used to initiate the message transfer. Geissler also teaches that the response signal can activate the microchip which in turn causes the telemetry device to receive data from the object (Geissler; Paragraph [0056] Lines 1-8). The response signal activates the I/O port, which then accepts data from the object. Therefore, the status of the I/O port and the object are both controlled by the response message.

Applicant also argues that the Examiner's analysis of the reference is flawed and therefore invalid because Applicant describes a situation in which the system would allegedly not work. However, the Examiner respectfully disagrees. Applicant's claim limitations do not describe an order in which the "user input" and "another user input" take place. Therefore, it could be reasonable to interpret the claim limitations as the "another user input" taking place before the "user input." Such an interpretation would render applicant's concern moot.

Applicant also argues that the relied upon references, Geissler in combination with US Patent Application Publication No. 2005/0071079 (hereinafter Godfrey), does not teach all the limitations of claims 1-4, 6-11, 13-18, 20, 21, 26, 30, and 31. Applicant argues that Geissler and Godfrey do not teach a "programmable I/O port." However, the Examiner respectfully disagrees. While Applicant may call the I/O port a "programmable I/O port," nothing in the claim limitations requires a reprogramming of the I/O port. The only limitation that could refer to such a reprogramming states that the telemetry device "sets parameters RELATING to the I/O port according to the configuration message." As stated above, this limitation could be interpreted as setting parameters in the object, which is RELATED to the I/O port. Therefore, even though Applicant has used the term "programmable I/O port," nothing in the claimed limitations require the I/O port to actually be "programmable." Therefore, all the claimed limitations are met by the relied upon references.

Applicant also argues that there would be no reason to combine the relied upon references in order include the A-GPS system of Godfrey. However, the Examiner respectfully disagrees. The Examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Godfrey teaches that using the system described in the Godfrey specification "improves the tracking of vehicles without some of the costs and disadvantages in the prior art" (Godfrey; Paragraph [0012] Lines 1-3). Applicant argues that such advantages are only accomplished by the use of Godfrey's DSRC network system. However, since the A-GPS system Godfrey describes uses the DSRC network system, such advantages can be realized from Godfrey's A-GPS system.

Therefore, the relied upon references teach all the claimed limitations and the rejection is not overcome.